

§ 203.610

foreclosure costs and reasonable attorney's fees and expenses properly associated with the foreclosure action, unless: (a) The mortgagee has accepted reinstatement after the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action, (b) reinstatement will preclude foreclosure following a subsequent default, or (c) reinstatement will adversely affect the priority of the mortgage lien.

§ 203.610 Relief for mortgagor in military service.

The mortgagee shall specifically give consideration to affording the mortgagor the benefit of relief authorized by §§ 203.345 and 203.346, if the mortgagor is *person in the military service* as that term is defined in the Soldiers and Sailors Civil Relief Act of 1940, as amended.

§ 203.614 Special forbearance.

If the mortgagee finds that a default is due to circumstances beyond the mortgagor's control, as defined by HUD, the mortgagee may grant special forbearance relief to the mortgagor in accordance with the conditions prescribed by HUD.

[61 FR 35020, July 3, 1996]

§ 203.616 Mortgage modification.

The mortgagee may modify a mortgage for the purpose of changing the amortization provisions by recasting the total unpaid amount due for a term not exceeding 360 months. The mortgagee must notify HUD of such modification in a format prescribed by HUD within 30 days of the execution of the modification agreement.

[62 FR 60130, Nov. 6, 1997]

MORTGAGES IN DEFAULT ON PROPERTY LOCATED ON INDIAN RESERVATIONS

§ 203.664 Processing defaulted mortgages on property located on Indian land.

Before a mortgagee requests that the Secretary accept assignment under § 203.350(b) of a mortgage insured pursuant to section 248 of the National Housing Act (§ 203.43h), the mortgagee must

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submit documents showing that the requirements of § 203.604 have been met.

[61 FR 35020, July 3, 1996]

MORTGAGES IN DEFAULT ON PROPERTY LOCATED ON HAWAIIAN HOME LANDS

§ 203.665 Processing defaulted mortgages on property located on Hawaiian home lands.

Before a mortgagee requests the Secretary to accept assignment under § 203.350(c) of a mortgage insured pursuant to section 247 of the National Housing Act (§ 203.43i), the mortgagee must submit documents showing that the requirements of § 203.604 have been met.

[61 FR 35020, July 3, 1996]

ASSIGNMENT AND FORBEARANCE—PROPERTY IN ALLEGANY RESERVATION OF SENECA INDIANS

§ 203.666 Processing defaulted mortgages on property in Allegany Reservation of Seneca Nation of Indians.

(a) *Applicability.* This section applies to mortgages authorized by section 203(q) of the National Housing Act (§ 203.43j) only if the default occurred before the mortgagor and the lessee execute a lease renewal or a new lease either with a term of not less than five years beyond the maturity date of the mortgage, or with a term established by an arbitration award.

(b) *Claims through assignment.* Before a mortgagee requests the Secretary to accept assignment under § 203.350(d) the mortgagee must submit documents showing that the requirements of § 203.604 have been met.

[53 FR 13405, Apr. 25, 1988, as amended at 61 FR 35020, July 3, 1996]

OCCUPIED CONVEYANCE

§ 203.670 Conveyance of occupied property.

(a) It is HUD's policy to reduce the inventory of acquired properties in a manner that expands homeownership opportunities, strengthens neighborhoods and communities, and ensures a maximum return to the mortgage insurance fund.

(b) The Secretary will accept conveyance of an occupied property containing one to four residential units if the Secretary finds that:

(1) An individual residing in the property suffers from a temporary, permanent, or long-term illness or injury that would be aggravated by the process of moving from the property, and that the individual meets the eligibility criteria in § 203.674(a);

(2) State or local law prohibits the mortgagee from evicting a tenant residing in the property who is making regular monthly payments to the mortgagor, or prohibits eviction for other similar reasons beyond the control of the mortgagee; or

(3) It is in the Secretary's interest to accept conveyance of the property occupied under § 203.671, the property is habitable as defined in § 203.673, and, except for conveyances under § 203.671(d), each occupant who intends to remain in the property after the conveyance meets the eligibility criteria in § 203.674(b).

(c) HUD consents to accept good marketable title to occupied property where 90 days have elapsed since the mortgagee notified HUD of pending acquisition, the Department has notified the mortgagee that it was considering a request for continued occupancy, and no subsequent notification from HUD has been received by the mortgagee.

[53 FR 874, Jan. 14, 1988, as amended at 56 FR 46967, Sept. 16, 1991; 58 FR 54246, Oct. 20, 1993; 61 FR 36266, July 9, 1996]

§ 203.671 Criteria for determining the Secretary's interest.

It is in the Secretary's interest to accept occupied conveyance when one or more of the following are met:

(a) Occupancy of the property is essential to protect it from vandalism from time of acquisition to the time of preparation for sale.

(b) The average time in inventory for HUD's unsold inventory in the residential area in which the property is located exceeds six months.

(c) With respect to multi-unit properties, the marketability of the property would be improved by retaining occupancy of one or more units.

(d) The high cost of eviction or relocation expenses makes eviction impractical.

[45 FR 59563, Sept. 10, 1980, as amended at 56 FR 46967, Sept. 16, 1991; 58 FR 54246, Oct. 20, 1993]

§ 203.672 Residential areas.

(a) For the purposes of occupied conveyance considerations, a residential area is any area which constitutes a local economic market for the purchase and sale of residential real estate. In making determinations of residential areas, substantial weight shall be given to delineations of such areas commonly used by persons active in the real estate industry in the affected area.

(b) HUD shall establish such residential areas within six (6) months of the publication of these regulations when HUD's current established patterns of dealing with the disposition of its acquired home property inventory and related recordkeeping does not coincide with paragraph (a) of this section. Under such circumstances the Secretary shall apply such established patterns in defining residential areas until the standards in paragraph (a) of this section are implemented.

[45 FR 59563, Sept. 10, 1980]

§ 203.673 Habitability.

(a) For purposes of § 203.670, a property is habitable if it meets the requirements of this section in its present condition, or will meet these requirements with the expenditure of not more than five percent of the fair market value of the property. The cost of hazard reduction or abatement of lead-based paint hazards in the property, as required by the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in part 35 of this title, is excluded from these repair cost limitations.

(b)(1) Each residential unit must contain:

(i) Heating facilities adequate for healthful and comfortable living conditions, taking into consideration the local climate;